U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-2000

OFFICE OF FAIR HOUSING
AND EQUAL OPPORTUNITY

MEMORANDUM FOR: Fair Housing Assistance Program Agency Directors

FROM: Nathan S. Roth, Acting Director, Office of Programs, FHEO

SUBJECT: Transmittal Memo: FY2025 Guidance Package for the Fair Housing Assistance Program

This memorandum transmits the FY2025 Fair Housing Assistance Program (FHAP) Funding Guidance Package (Guidance). The Guidance consists of the following documents:

1. FY2025 FHAP Funding Guidance
   - Attachment A – *Criteria for Processing*
   - Attachment B – *Standards for Timeliness*
   - Attachment C – *FY2025 Payment Amounts for FHAP Case Processing*
   - Attachment D – *Using HUD Systems*
   - Attachment E – *FY2025 Partnership and Special Enforcement Effort Funds*
   - Attachment F – *Mandatory HUD Grant Agreement Provisions*

The Guidance and the accompanying materials contained herein are for utilization in administering FY2025 FHAP funds and provide instruction and technical guidance for FHEO and FHAP agencies' administration of FHAP program requirements. Any questions regarding the enclosed Guidance should be directed to the appropriate FHEO Region Director and GTR/GTM official. HUD regional staff will consult with the FHEO FHAP Division in HUD Headquarters as necessary to provide technical assistance concerning this Guidance.

In FY2025, the FHAP Division is increasing case processing reimbursement rates and administrative cost rates. The FHAP Division is decreasing training funds available to agencies while increasing the amount of special enforcement funds and partnership funds available to agencies.

FHAP agencies should place special emphasis on the following:

1. Substantial Equivalency Review

   FHAP agencies should only submit cases for reimbursement that have clear, primary basis in a prohibited characteristic that is covered by the plain language of the federal Fair Housing Act. For example, the Fair Housing Act prohibits discrimination based only on the following specifically protected characteristics: race, color, national origin, religion, sex, familial status, and disability. The Fair Housing Act does not include protections for sexual orientation, gender identity, and gender expression; "source of income"; criminal records; weight and height; or limited English proficiency. Any

submitted complaints based on rights not expressly found in the federal Fair Housing Act and other relevant federal civil rights law will not be reimbursed.

24 CFR Part 115, Subpart B, implements section 810(f) of the Fair Housing Act, including the basis and procedures by which a determination is made to grant interim certification and certification to state or local agencies that enforce fair housing laws. Substantial equivalency certification is granted if the Department determines that a state or local agency enforces a law that is substantially equivalent to the federal Fair Housing Act with regard to substantive rights, procedures, remedies, and the availability of judicial review.

As part of this process, the Assistant Secretary for FHEO will determine whether, on its face, the fair housing law that the agency administers provides rights, procedures, remedies, and the availability of judicial review that are substantially equivalent to those provided in the federal Fair Housing Act.

If the Assistant Secretary determines, after application of criteria set forth in §§ 115.204, 115.206, that the state or local law, both "on its face" and "in operation," provides substantive rights, procedures, remedies, and judicial review procedures for alleged discriminatory housing practices that are substantially equivalent to those provided in the federal Fair Housing Act, the Assistant Secretary may enter into a Memorandum of Understanding (MOU) with the agency.

In FY2026, FHEO will review FHAP agency agreements and operations to ensure adequacy of law, and adequacy of performance. As part of FHEO's review, it will seek to ensure that all FHAP efforts are consistent with the federal Fair Housing Act. Local fair housing laws that grant substantive rights outside the seven protected traits found in the federal Fair Housing Act (race, color, national origin, religion, sex, disability, and familial status) may be found not substantially equivalent to federal law. Non-compliant substantive rights include but are not limited to sexual orientation and gender identity or expression, language, criminal records, and source of income. FHAPs governed by local fair housing laws that grant substantive rights not found in the federal Fair Housing Act risk having their substantial equivalency certification revoked.

2. Compliance with Federal Executive Orders

All grantees agree to follow all applicable conditions in compliance with federal executive orders.

3. Timeliness & Enforcement of Cause Findings

The Department is concerned about the timeliness of FHAP agencies processing complaints. Consequently, it is now expected that FHAP agencies will close or charge no fewer than 75% of fair housing complaints filed during the case processing period within 100 days. This increases from 50% in FY2024. Further, FHAP agencies are reminded that their role in the program comprehends both investigations and enforcement. FHAP

agencies that rely on outside enforcement entities (*e.g.*, city/county attorney, state Attorney General) must establish robust and effective relationships with those entities to ensure full enforcement of substantially equivalent laws.

4. Data Input in HEMS

   The Department continues to be concerned with the low level of compliance with the requirement to record complete information in HUD Enforcement Management System (HEMS). The requirement to use HEMS and to input complaint information — throughout the entire lifecycle of a complaint — is memorialized in several places, including the program regulations, agency performance standards, the Contributions Agreement, and amplifying HEMS guidance issued in 2016.

   Specifically, FHAP agencies must "use HEMS, and must input all relevant data and information into the system in a timely manner." Required information includes investigative information and "all final status information" relating to post-cause enforcement. Information in HEMS allows the Department to track and measure our achievements, identify challenges, and manage our inventory with fewer resources. This information is critical for assessing the performance of individual agencies and the overall operation of the Program. Additional specific guidance on the requirements related to HEMS will be forthcoming.

Finally, important notes about FY2025 Complaint Processing and Performance Periods:

- FY2025 Complaint Processing Period: July 1, 2024 – June 30, 2025

  *** Only cases submitted to and approved for payment by HUD on or before July 31, 2025, will be processed for payment under this FY2025 Guidance.

- FY2024 Performance Period: October 1, 2024 – September 30, 2025

Important Note: For FY2025, HUD has aligned all Periods of Performance to begin October 1, 2025 – September 30, 2026. The purpose is to ensure consistency and to ensure that FHAP agencies have sufficient time to utilize administrative funds and training funds. Consequently, HUD-1044s will reflect this change, which is correct and in line with HUD's new procedure.

Attachments

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OFFICE OF FAIR HOUSING
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FY2025 Fair Housing Assistance Program (FHAP) Funding Guidance

This document, and its attachments, provide the FY2025 Funding Guidance for both Fair Housing Assistance Program (FHAP) Capacity Building and Contributions agencies. The Guidance contains important details regarding HUD's methodology for determining FHAP agency payments and use of FY2025 funds. This Guidance addresses: 1) training and other matters applicable to all FHAP agencies, 2) funding for Capacity Building agencies, and 3) funding for Contributions agencies.

*****NOTE**: All FHAP funds discussed in this FY2025 FHAP Guidance, and the methodologies for distributing such funds, are subject to the FHAP congressional appropriation, national FHAP complaint processing volume, addition of new participating jurisdictions, and any other factors that necessarily impact the way HUD disburses FHAP funds.

*****NOTE:** FHAP agencies are required to adhere to all federal laws, regulations, and Executive Orders related to the administration of the FHAP. Federal funds utilized for the FHAP program administration must comport with all such laws, regulations, and Executive Orders for the duration of the agreement.

I. General Requirements and Information for All FHAP Agencies

A. FY2025 Complaint Processing and Performance Periods

Generally, FHAP agencies receive funding based on activities conducted within the preceding twelve-month period (the Performance Period). For purposes of calculating payments for case processing, FHEO uses a Complaint Processing Period which closes a quarter earlier than the Performance Period to allow for the completion of case reviews, payments calculations, and cooperative agreement preparation.

The FY2025 Complaint Processing and Performance Periods are as follows:

- FY2025 Complaint Processing Period: July 1, 2024 – June 30, 2025

  *** Only cases submitted to and approved for payment by HUD on or before July 31, 2025, will be processed for payment under this FY2025 Guidance.

- FY2024 Performance Period: October 1, 2024 – September 30, 2025

*****NOTE:** For FY2025, HUD has aligned all Periods of Performance to begin October 1, 2025 – September 30, 2026. The purpose is to ensure consistency and to ensure that FHAP agencies have sufficient time to utilize administrative funds and training funds. Consequently, HUD-1044s will reflect this change, which is correct and in line with HUD's new procedure.

B. Training Funds

Consistent with 24 C.F.R. § 115.306, all (*i.e.*, interim certified and certified) FHAP agencies are eligible to receive training funds to cover costs for HUD-approved or HUD-sponsored training, including travel for such training. Under the regulation, all staff of the agency responsible for the administration and enforcement of the fair housing law must participate in HUD-approved or HUD-sponsored training each year.

All agencies, including Capacity Building agencies, are eligible to receive training funds. The FY2025 Guidance to the FHAP agencies encourages them to provide training not only to their investigative staff, but also to their commissioners or other hearing officers and to their legal staff (where applicable). Additionally, the FY2025 Guidance encourages FHAP agencies to both seek additional educational opportunities for their staff and to request additional training funds when appropriate educational opportunities are identified.

For FY2025, State FHAP agencies will receive $5,000 and Local FHAP agencies will receive $2,500. This marks a sizable change to training funds distribution from $3,000 per FTE allocation to a flat rate model. FHAPs must expend training dollars obligated from prior funding years before expending FY25 training funds. The National Fair Housing Training Academy (NFHTA) will continue to provide tuition-free programs and training for FHAP agencies. However, travel costs related to attending NFHTA courses or for the proposed FHAP convening, and all trainings related to an agency's participation in FHAP—including transportation, lodging, and *per diem*—should be paid with FHAP Training funds. The FY2025 Guidance reminds agencies of the availability of Training funds and the requirement to obtain advance authorization for use of the funds from the respective FHAP GTR / Region Director.

> ***__NOTE__: The FHAP Division strongly encourages the vigorous pursuit of continuing education. Consistent with the memorandum of July 28, 2015 ("*Use of FHAP Training Funds*"), FHAP agencies should seek out other formalized training opportunities for their staff that will enhance their ability to conduct thorough and professional complaint processing. Aside from HUD-sponsored training, such additional opportunities may be offered by, for example, academic institutions, advocacy organizations, professional for-profit training entities, bar associations, or conferences or trainings organized by other FHAP agencies. In support of that pursuit, HUD will only approve use of training funds for education and engagements that align with the Administration's priorities. Additionally, this year the Division has decreased training funds to increase the utilization of prior year funding in training accounts. The Division is suggesting that agencies work with their GTMs and GTRs to determine what older funds are available to each agency.

The FHAP Division may have additional funds that can be used for training. Where appropriate educational opportunities are identified that require additional training funds, a request for such funds should be made to the FHAP Division.

C. Recordkeeping on Race and Ethnicity

Changes were made to the 2000 Census to reflect the growing racial and ethnic diversity of the U.S. population. As a result, Office of Management and Budget (OMB) revised its standards related to federal data on racial and ethnic categories. In collecting racial and ethnic

data, FHAP agencies should use the five racial categories, and two ethnic categories outlined below.[1]

Five Racial Categories

1. American Indian or Alaska Native. A person having origins in any of the original peoples of North and South American (including Central America), and who maintains tribal affiliation or community attachment.
2. Asian. A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Island, Thailand, and Vietnam.
3. Black or African American. A person having origins in any of the black racial groups of Africa.
4. Native Hawaiian or other Pacific Islander. A person having origins in any of the original peoples of Hawaii, Guam, Samoa or other Pacific Islands.
5. White. A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

Two Ethnic Categories

1. Hispanic or Latino. A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
2. Not Hispanic or Latino. A person not of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.

D. Management Goals

In addition to existing FHAP performance standards and requirements enumerated at 24 C.F.R. part 115, FHEO will monitor two management measures in assessing the performance of FHAP agencies. Monitoring these measures, in addition to reviewing closed cases submitted for payment, provides a comprehensive perspective of a FHAP agency's overall case processing, as these measures take into account the management of the agency's open case inventory. FHEO may consider an agency's success under these two measures in prioritizing the distribution of Partnership Funds and Special Enforcement Effort (SEE) funds, if funds are available, or in other ways, to provide incentive for high performance in FHAP agency operations. FHAP agencies may consult with their GTR/GTM to receive intermittent reports to monitor agency progress:

- FHAP agencies will close or charge 75% of fair housing complaints filed during the case processing period within 100 days.

- FHAP agencies will close or charge 95% of aged fair housing complaints carried over from the prior case processing period.

[1] The Census Bureau is preparing to implement OMB's updated 2024 race and ethnicity standards in the 2027 American Community Survey and the 2030 Census and are developing an action plan for how to implement the updated standards in all of agency surveys and data programs that include data on race/ethnicity. For more information regarding implementation visit: https://www.census.gov/about/our-research/race-ethnicity/standards-updates.html.

II. FHAP Capacity Building Agencies – Interim Certified

Capacity Building (CB) agencies administer a state or local law that has been certified on an interim basis as substantially equivalent to the federal law, on its face. CB agencies enter into an Interim Agreement for a three-year period. During this period, the agency develops and demonstrates its capacity to administer the jurisdiction's substantially equivalent law in accordance with the requirements of the program. CB agencies are provided funds in a fixed annual amount through Cooperative Agreements that are executed each year of interim certification. CB funds must be used to support activities to increase awareness of the law within the jurisdiction, and to administer and enforce the law. In accordance with 24 C.F.R. § 115.302, HUD sets this fixed amount but may provide additional funds during the first year if necessary due to the number of complaints processed. HUD also has the discretion to provide contributions funding to a CB agency. At the conclusion of the three-year period, if the CB agency's performance is satisfactory and its law remains substantially equivalent HUD may transition the agency from interim certified to fully certified (*i.e.*, from a Capacity Building agency to a Contributions agency). This is accomplished by the execution of a *Memorandum of Understanding* between HUD and the agency.

For FY2025, there is an increase to the HUD fixed annual amount for CB agencies up to $200,000. Based on a mix of factors in each jurisdiction, including but not limited to such factors as population, labor costs, and other economic and administrative cost factors, HUD may choose to increase or decrease the fixed annual amount. Like all FHAP agencies, CB agencies must ensure staff are trained in accordance with program requirements. Training and technical assistance should be sought through the NFHTA.

III. FHAP Contributions Agencies - Certified

FHAP Contributions agencies are provided funds under annually executed Cooperative Agreements. In addition to Training funds (*see* Section 1(B)), contributions agencies are eligible to receive administrative cost and complaint processing funds to support the enforcement of their state or local fair housing law that HUD has certified as substantially equivalent to the federal Fair Housing Act. Subject to budgetary constraints and at HUD's discretion, agencies eligible to receive contributions funds may also qualify for Partnership and SEE funds. The following section of this memorandum presents HUD's FY2025 funding methodology in these areas.

A. Complaint Processing (CP) Funds

i. Payment Amounts

In FY2025, there is a slight increase in the full payment for accepted cause and no-cause complaint investigations, which will be $3,600. Payment for conciliation agreements, *i.e.*, conciliation agreements that contain relief for the complainant(s) and effective public interest relief, will be $3,400. The payment for conciliation agreements recognizes the value of obtaining outcomes that are satisfactory to all parties and address meaningful relief in the public interest, often in the form of changes to policies or practices that will have a remedial effect beyond the immediate complainant(s). It is also intended to compensate the agency for required monitoring to ensure implementation of and adherence to conciliation terms.

In an effort to decrease the overall number of administrative closures and more effectively utilize case processing funds, all such closures, as well as "withdrawals with resolution," will continue to be paid at a lower rate of $1,600. An excess of closures for lack of jurisdiction, for example, may be indicative of incomplete interviews or errors at intake. Large numbers of closures due to failure to identify or locate a party may indicate that the agency's efforts at identification or location of parties are insufficient or that lengthy gaps in case processing are resulting in lost contact with parties.

Case closures due to withdrawal with resolution:1) do not typically assure the provision of adequate relief under the law, including relief in the public interest, 2) are not subject to monitoring to ensure adherence to terms, and 3) are not enforceable by the jurisdiction in the event of a breach. The Department recognizes that complaint withdrawals with resolution do not demand agency resources in the same manner as a successful conciliation agreement and therefore will not pay these closures commensurate with fully investigated or conciliated cases. FHAP agencies should not attempt to encourage or persuade a complainant to withdraw a complaint and should not rely on a complainant's withdrawal with resolution as an alternative to the pursuit of a conciliation agreement or an administrative or judicial remedy.

While HUD continues to provide increased monetary resources to FHAP agencies, FHAPs must be aware that Region Directors may exercise their discretion to require FHAP agencies to take on increasing responsibilities with respect to complaint intake. *See*, Section V of the *Memorandum of Understanding* between HUD and each FHAP agency ("In order to protect housing rights and facilitate the filing of complaints, HUD and the Agency each authorize the other to receive complaints for it.").

The distribution of complaint processing funds is addressed at 24 C.F.R. § 115.304(b). For the case processing period concluding June 30, 2025, FHEO will pay Contributions Agencies for processed complaints that are <u>both</u> 1) cognizable under the federal Fair Housing Act, and 2) acceptable for payment under the *Criteria for Processing* and *Standards for Timeliness* included as part of this Guidance (see: Attachments A and B). Under the payment methodology, complaint processing funds are determined by case closure disposition in accordance with the *Case Processing Payment Schedule* on page 6.

For FY2025, the FHAP Division will continue to provide a post-cause enforcement supplemental payment as follows: $5,000 for conducting a post-cause administrative hearing and $8,000 for the filing of a post-cause civil action. Conciliation agreements reached after a cause finding will not qualify as an enforcement action for purposes of this supplemental payment but will be paid as any other case closed with a conciliation agreement.

Many FHAP agencies rely on a separate entity within the jurisdiction's governmental structure for judicial enforcement. In recognition of the fact that challenging fiscal environments can create tension between FHAP agencies and their legal enforcement agencies, in terms of the costs associated with judicial enforcement, the post-cause supplemental payment is intended to facilitate more effective enforcement partnerships within jurisdiction governments. We continue to strongly encourage FHAP agencies to develop interagency agreements for coordination, cause case development and the sharing of enforcement-related costs – all of which contribute to the goal of increased quality enforcement actions to combat unlawful discrimination.

Where the triggering event (*i.e.*, conduct of administrative hearing or filing of civil action)

for the supplemental payment does not occur, an agreement reached after a cause finding will not qualify as an enforcement action for purposes of this supplemental payment. Such cases will be paid as any other cause case unless the disposition is a conciliation agreement (*i.e.*, an agreement signed by the parties and the FHAP agency), in which case it will be paid as any other case closed with a conciliation agreement. Where the triggering event has occurred, a FHAP agency will receive supplemental payment even where the case is resolved by a subsequent agreement, *e.g.*, through a consent decree.

Agencies will receive this increased supplemental payment when the agency has engaged in post-cause enforcement actions and has documented its actions in HEMS. This documentation must occur for the GTR/GTM to authorize payment. This one-time payment will be allowed in cases where the qualifying enforcement action takes place during the 2025 Case Processing Period (defined above), even if the cause determination / charge was issued during an earlier Case Processing Period.

HUD will continue to administer the FHAP program in a fiscally sound manner. HUD will monitor the actual effect of the payment rates and, if necessary, may make subsequent adjustments to complaint processing payments or any other FHAP funding methodologies.

*****NOTE: For purposes of budget estimation for the following year it is critical that FHAP agencies communicate accurate information with respect to post-cause enforcement actions to their assigned GTMs/GTRs (and into HEMS) throughout the Performance Period, *i.e.*, # of administrative hearings conducted and # of civil actions filed.**

FY2024 Case Processing Payment Schedule

Case Disposition	FY25 Payment Amount
Full Investigation Cause/No Cause	$3,600
Conciliation	$3,400
Administrative Closures	$1,600
Withdrawal with Resolution	$1,600
Post-Cause Enforcement Payment	$5,000 (*administrative hearing held*) $8,000 (c*ivil action filed*)

ii. No Quality or Timeliness Deductions from Payment Amounts

FHAP cases accepted for payment will be paid at their full rate, *i.e.*, no deductions will be made from the full payment. This practice provides a more reliable, predictable payment schedule to facilitate the agencies' budget planning and promotes greater consistency in case assessments and case payment rates across regional offices and GTR/GTM staff. It also is intended to provide substantive coordination with FHAP agencies focused on improved quality complaint processing outcomes through routine performance monitoring and feedback, rather than relying on the former practice of case-by-case payment deductions as a method of quality control.

*****NOTE**: While cases accepted for payment will be paid at the full rate, FHAP agencies

are reminded that HUD GTRs and Region Directors are vested with discretion and authority to refuse to accept cases for payment where quality and timeliness standards are not met, including the criteria for adequacy of conciliations/settlements set forth in Section V of the *Criteria for Processing*.

FHAP agency management and staff are reminded that the *Criteria for Processing* and the *Standards for Timeliness* (Attachments A and B to this Guidance) remain a valuable FHAP performance monitoring tool and an important part of this FY25 Guidance. GTMs and GTRs will continue to use the criteria and standards to assess the quality of a FHAP agency's complaint processing in connection with both decisions whether to accept cases for payment and Performance Assessment Reports (PARs). PARs, in concert with ongoing monitoring and complaint review and contemporaneous feedback to FHAP agencies, are the proper vehicle for identifying performance concerns and for specifying required corrective actions. Agencies that fail to adequately provide for quality and timeliness in complaint processing may be subjected to performance improvement actions or suspensions without regard to case payment rates.

Finally, FHEO and FHAP agencies must take precautions to ensure that complaint filings and associated case payments are not redundant and duplicative. FHAP agencies should note that FHEO will pay for complaints filed and processed in accordance with intake protocols outlined in the FY2025 Criteria for Processing and Intake Training and protocols provided through NFHTA. Case payments will be made only for unique complaints involving separate and distinct discriminatory actions. Where allegations may be made against two or more respondents, a separate complaint should be filed against each individual respondent only if that respondent's actions constitute a separate violation of the Act. Furthermore, if complainants are married and both are aggrieved persons, a single, joint complaint should be filed. If there are children under age 18 who reside in the household who may have been injured by the alleged discriminatory housing practice(s), they should be listed as "Other Aggrieved Persons" on that same complaint.

B. Administrative Cost (AC) Funds

As in prior years, AC funds are tied to the quantity of a Contributions agency's caseload. For FY2025, the FHAP Division is increasing the AC fund award schedule. HUD will continue to provide enhanced AC funds to FHAP agencies operating in high-cost areas. The enhancement will be provided by applying a locality adjustment developed by HUD's Office of Policy Development and Research to the FHAP agency's base award. The locality adjustment recognizes and is intended to ameliorate the fact that some FHAP agencies operate in areas with higher labor costs and other economic and administrative cost factors. For FY2025, we will continue to apply only those locality adjustments that result in an increase in AC funding. The FHAP Division will monitor the effects of this change, and refinements may be made in subsequent years.

For FY2025, FHAP agencies that acceptably process 100 or more complaints during the Complaint Processing Period will receive 20% of the agency's total FHAP obligation for FY2024, with a locality adjustment where applicable. For purposes of this calculation, "total FHAP obligation" will not include any Partnership funds or SEE funds the agency may have received in FY2024. Agencies that process fewer than 100 complaints during the Complaint Processing Period will receive AC funds as follows:

FY2025 Administrative Costs Funds Distribution

# of Complaints Acceptably Processed in Complaint Processing Period	FY2025 AC Funds (subject to locality adjustment)
0 – 12	$9,500
13 – 30	$15,500
31 – 60	$34,000
61 – 99	$62,000

AC funds may be used for data and information systems, salaries, and other administrative expenses associated with the administration and enforcement of a substantially equivalent fair housing law. HUD encourages the use of these funds to facilitate the hiring of staff. Agencies must submit a written plan detailing how they intend to use AC funds to the GTR/GTM for approval.

C. Partnership Funds

For FY2025, the Department is allocating a total of up to $600,000 available for Partnership funds to utilize the services of individuals and/or public, private, for-profit, or not-for-profit organizations. Distribution of these funds will not be made on a formula basis, and decisions on requests for funds from FHAP agencies will be made in headquarters on a case-by-case basis. The priority use of FY2025 Partnership funds is to engage in fair housing education and outreach. Eligibility, use, and control of 2025 Partnership funds is detailed at Attachment E.

D. Special Enforcement Effort (SEE) Funds

For FY2025, up to $600,000 in SEE funds are available for agencies to supplement enforcement related costs associated with complex or protracted litigation, cover extraordinary enforcement and investigation related costs associated with fair housing enforcement activities. In FY2025 there is an emphasis on providing SEE funds for agencies that conduct their own Intake. These funds will be made on a formula basis and decisions for SEE funds from FHAP agencies will be made in headquarters, with the actual fund commitment taking place in the field as with all other FHAP funds. Eligibility, use, and control of 2025 SEE funds is detailed at Attachment E.

IV. Questions and Technical Support

Any questions with respect to the 2025 FHAP Guidance Package should be directed to the appropriate FHEO Region Director and GTR/GTM official. Regional staff will consult with the FHEO FHAP Division in HUD Headquarters as necessary to provide technical assistance concerning this Guidance.

Attachment A – *Criteria for Processing*
Attachment B – *Standards for Timeliness*
Attachment C – *FY2025 Payment Amounts for FHAP Case Processing*
Attachment D – *Using HUD Systems*

Attachment E – *FY2025 Partnership and Special Enforcement Effort Funds*
Attachment F – *Mandatory HUD Grant Agreement Provisions*

ATTACHMENT A

FY2025 Criteria for Processing

The Criteria for Processing (Criteria) are the standards by which HUD determines whether a complaint, cognizable under the federal Fair Housing Act and processed by a substantially equivalent state or local agency, meets the minimum requirements for quality and timeliness, and identify the documents that must be submitted to HUD in order to receive reimbursement. The Criteria are designed to assure the uniform, timely, and quality processing of housing discrimination complaints processed under substantially equivalent fair housing laws.

The Criteria are enumerated under major subheadings, most of which describe the type of closure, (*e.g.*, cause, no cause, conciliation). Subheadings I through III set out criteria that apply to most complaints. Subheadings IV through VII set forth additional criteria specific to particular types of complaint closure. For example, to meet the criteria for an administrative closure, criteria under subheadings I (Complaint Filing), II (Notification), III (Cause and No Cause Determinations), VII (Administrative Closures) may need to be met.

An agency must meet the Criteria for each complaint processed and provide all complaint-related documentation identified in the Criteria to HUD within 30 days of completion of complaint processing. Such documentation must be submitted to HUD via the HUD Enforcement Management System (HEMS). An agency's failure to input all required information in HEMS in a timely manner will negatively impact an agency's performance rating. HUD will address a failure to meet the Criteria through performance deficiency procedures including, but not limited to, technical assistance, performance improvement plans, and suspension from FHAP participation. *See* 24 C.F.R. § 115.307(a)(3) and 24 C.F.R. § 115.210.

HUD utilizes complaint closure review forms which combine the Criteria for Processing and the Standards for Timeliness into checklists for each type of complaint closure. These forms are available to FHAP agencies as an additional technical assistance tool to support high quality case processing.

I. COMPLAINT FILING

A. Quality Requirements:

1. All complaints must be timely filed in accordance with the substantially equivalent state or local fair housing law.

2. All complaints must be in writing, signed by the complainant, and contain the following information:

    a. The name and address of complainant;

    b. The name and address of each respondent;

    c. If a specific property is involved, the property's address and physical description, such as apartment, condominium, house or vacant lot; and

    d. A concise statement of the facts, including pertinent dates, constituting the alleged discriminatory housing practice.

3. Where the agency determines that there is insufficient information in the complaint to commence an investigation, the agency must notify the complainant in writing by no later than the fifth (5) day after receipt of the complaint and inform the complainant what information he or she must provide in order to commence an investigation and identify a reasonable timeframe for submitting such information. The agency must notify the complainant that unless he or she provides the required information within the specified timeframe, the agency may dismiss the complaint.

4. The FHAP agency must permit complaints to be filed with the assistance of an authorized representative or organization of the complainant.

5. The FHAP agency must permit complaints to be reasonably and fairly amended at any time. Such amendments may include, but are not limited to:

    a. amendments to cure technical defects or omissions;

    b. clarification, amplifications, or amendments of allegations in a complaint; or

    c. joinder of additional or substitute respondents.

    The FHAP agency should consider amended complaints as having been filed on the date the original complaint was filed.

6. If a FHAP agency requires complaints to be notarized, HUD will not reimburse the agency for a complaint not filed because the complainant did not get the complaint

notarized. To preserve the rights of aggrieved persons, a FHAP agency must refer such complaints to HUD for investigation under the federal Fair Housing Act as soon as practicable and, where necessary, consent to their reactivation.

7. Pursuant to 24 CFR § 115.210, and the March 7, 2001, memorandum entitled "Limitations on Accepting as Dual-Filings FHAP Cases That Implicate First Amendment," HUD will not reimburse FHAP agencies for complaints that implicate the First Amendment of the U.S. Constitution. The FHAP agency must alert HUD to complaints that it receives that may implicate the First Amendment so that HUD may analyze the complaint and determine if reimbursement is appropriate. These cases include those that are premised on additional protections afforded by state or local law to individuals based on sexual orientation or gender identity or expression that may implicate the first amendment rights of the respondent.

8. Pursuant to a Memorandum of Understanding between HUD and the Internal Revenue Service, the FHAP agency must identify in HEMS whether the property named in a complaint receives Low Income Housing Tax Credits. This is required for every complaint.

9. The FHAP agency must refer complaints to HUD when the agency receives allegations involving a practice that is not prohibited by the substantially equivalent State or local law, but which is prohibited by the federal Fair Housing Act.

10. FHAP agencies should only submit any cases for reimbursement that have a clear, primary basis in a prohibited characteristic that is covered by the plain language of the federal Fair Housing Act. For example, the Fair Housing Act prohibits discrimination based only on the following specifically protected characteristics: race, color, national origin, religion, sex, familial status, and disability. The Fair Housing Act <u>does not</u> include protections related to sexual orientation, gender identity, and gender expression; "source of income"; criminal records; height and weight; nor limited English proficiency. Any submitted complaints based on rights not expressly found in the federal Fair Housing Act and other relevant federal civil rights law will not be reimbursed.

11. If a housing discrimination complaint is filed against a recipient of federal financial assistance and therefore implicates civil rights laws that FHEO enforces other than the federal Fair Housing Act (multi-jurisdictional), the FHAP agency shall notify FHEO so that FHEO may process that portion of the complaint. Other civil rights laws enforced by FHEO include:

    a. Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000(d) (prohibiting discrimination on the basis of race, color or national origin in programs or activities receiving federal financial assistance);

    b. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794

(prohibiting discrimination based on disability in programs or activities receiving federal financial assistance);

c. Section 109 of the Housing and Community Development Act of 1974, 42 U.S.C. § 5309 (prohibiting discrimination on the basis of race, color, national origin, religion or sex in any program or activity funded in whole or in part by the community development block grant programs);

d. Title II of the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq*. (prohibiting discrimination based on disability in programs, services and activities made available by public entities);

e. Architectural Barriers Act, 42 U.S.C. § 4151 *et seq.* (providing that buildings, including publicly owned residences, designed constructed, leased or altered with certain federal funds must be accessible to persons with disabilities); and

f. Age Discrimination Act of 1975, 42 U.S.C. § 6101 (prohibiting discrimination based on age in programs or activities receiving federal financial assistance).

B. Required Documents: A signed, dated copy of the complaint, any requests for amendment(s) to the complaint, and evidence of compliance with the timeframes and requirements identified above.

C. Complaint Filing with Multiple Complainants or Respondents: FHAP agencies will be reimbursed only for complaints that involve separate, distinct discriminatory actions that require a separate investigation. Where allegations may be made against two or more respondents, separate complaints should be filed against each respondent only when each respondent's conduct stands alone as a separate violation of the Act. Furthermore, if complainants are married and both are aggrieved persons, a single, joint complaint should be filed. If there are children under age 18 who reside in the household who may have been injured by the alleged discriminatory housing practice(s), they should be listed as "Other Aggrieved Persons" on that same complaint. FHAP agencies should not typically file separate complaints for spouses or children under 18 residing in the household.

II. NOTIFICATION

A. Quality Requirements: The FHAP agency must notify HUD within five (5) days of receiving complaints that are cognizable under the federal Fair Housing Act. In addition, the FHAP agency must serve notice of the complaint to each complainant and respondent in accordance with the timeframes identified in the substantially equivalent law and the following requirements.

1. The notification letter to the complainant must consist of an acknowledgement of

receipt of the complaint for filing, the designation of a complaint number, information related to the agency's processing procedures including the name and telephone number of a FHAP agency contact, and the complainant's rights and obligations under the substantially equivalent law, including time limits and choice of forums.

2. The notification letter to each of the respondents must consist of a description of the alleged housing discrimination practice upon which the complaint is based, include a copy of the complaint, and identify the name and telephone number of a FHAP agency contact. The notice to each respondent must advise the respondent of his or her procedural rights and obligations, including the right to file an answer within the timeframe identified in the substantially equivalent law.

3. A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of the investigation, may be joined as an additional or substitute respondent by service of a written notice. The notice must explain the basis for the agency's belief that the joined person is properly joined as a respondent and include information identified in paragraph 2 above.

B. Required Documents: For complaints that are filed directly with the FHAP agency, the agency must enter information in HEMS regarding the complaint within five days of receiving the complaint, sufficiently notifying HUD of the complaint. In addition, the agency must provide HUD with a copy of the notification letters sent to the parties and must update HEMS to indicate when the agency sent the notification letters.

III. CRITERIA FOR CAUSE AND NO CAUSE DETERMINATION

Every cause or no cause determination must be based on an investigation that includes sufficient consideration of the complainant's and respondent's evidence, and a sufficient evaluation of any and all conflicting evidence. A cause or no cause determination must be based on a review of all relevant evidence the agency obtained during the investigation. The agency shall not act as an advocate for either the complainant or respondent and shall weigh the evidence objectively in light of the relevant substantially equivalent law. The basis for the cause or no cause determination must be well-documented.

A. Quality Requirements:

In addition to the criteria set forth in subheadings I and II above:

1. Before the end of the 30th day after the complaint is filed, the FHAP agency must initiate a comprehensive investigation of issues raised in the complaint. Respondent's defenses, relevant policies and practices, as well as all other relevant data, must be identified and analyzed and the complainant, respondent, and all relevant witnesses must be interviewed. Contradictions between complainant's allegations and respondent's response must be investigated and when applicable, comparative data must be obtained. Information must be independently

corroborated. Simply obtaining respondents' statements rebutting complainant's allegations is insufficient to resolve disputed issues of fact.

2. HUD recommends that FHAP agencies develop investigative plans for every complaint processed that is cognizable under the Fair Housing Act. For guidance on developing an investigative plan, FHAP agencies should refer to Chapter 7 of HUD Handbook 8024.01 REV-2 (Title VIII Complaint Intake, Investigation, and Conciliation Handbook).

3. In planning the investigation, the investigator and his or her supervisor must determine, on a complaint-by-complaint basis, whether on-site inspections and/or interviews are required. For most complaints, on-site inspections and/or interviews are the most thorough way to conduct an investigation. Some cases, *e.g.*, where the complaint does not involve factual disputes or where evidence clearly demonstrates the allegations do not have merit, may not require an on-site visit.

4. During the period beginning with the filing of a complaint and ending with the FHAP agency's determination or charge of discrimination, the agency, to the extent feasible, must attempt to conciliate the complaint (*see* more detail on criteria for conciliation in Section V of this document).

5. If the agency does not complete the investigative activities with respect to a complaint within 100 days from the date of receipt, it must notify the parties in writing of the reason(s) for the delay. Such notification letters must be sent within 110 days of the filing of the complaint.

6. At the end of each investigation, the agency shall prepare a Final Investigative Report (FIR). A FIR shall be dated and signed by at least one supervisor. The FIR shall contain:

    a. The names and dates of contacts with the parties and witnesses, except that the report will not disclose the names of witnesses who request anonymity;

    b. A summary of correspondence and other contacts with the complainant and the respondent;

    c. A summary description identifying other pertinent records examined;

    d. A summary of statements by witnesses, if applicable; and/or

    e. Interrogatories and answers provided, if applicable.

7. Each Determination shall be signed and dated by an authorized FHAP official.

8. The FHAP agency shall send the closure package to HUD within 30 days of closure. (See B below).

9. The FHAP agency will cooperate with HUD by providing information at regular intervals or upon request related to individual complaint investigations. Upon request, the FHAP agency shall provide status reports for each complaint that is over 100 days old.

B. Required Documents: The case file shall include all evidence indicating that a comprehensive investigation was commenced and completed in accordance with the above requirements including, but not limited to: a copy of a signed, dated complaint; a copy of a FHAP agency determination, dated and signed by an authorized FHAP official; proof that a FHAP agency sent its determination letter to all parties; an FIR that meets the above listed requirements; an investigative plan (when such plan exists); a copy of the 100-day letters and evidence that they were sent, if applicable; and all other information pertinent to the investigation, including but not limited to interview notes, documentation of conciliation attempts and, when necessary, independent evidence corroborating respondent's defense(s).

IV. CRITERIA FOR POST-CAUSE COMPLAINTS HEARD IN AN ADMINISTRATIVE HEARING, CIVIL ACTION, OR THROUGH JUDICIAL REVIEW

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

A. Quality Requirements: After a cause determination and a charge of discrimination, or its equivalent, has been issued, and assuming the conciliation was attempted and failed, the complaint must be referred to appropriate counsel to prosecute the charge on behalf of the complainant, at government expense, before an administrative hearing body or civil court.

B. Documents Required: HUD will accept such a complaint for reimbursement if the agency provides documentation of such a referral in, for example, correspondence, logs or pleadings. Additionally, the FHAP agency shall provide any final administrative hearing decision, consent decree, or settlement agreement entered to HUD within 30 days of such action. If the agency does not provide this information, HUD may request, and the agency will be required to return, up to 50% of the reimbursement previously paid to the agency for the complaint.

> ***NOTE: While the agency may obtain reimbursement on these complaints prior to final disposition by an administrative hearing body or a civil court, the agency must subsequently report to HUD the final status of such complaints. *See* 24 C.F.R. § 115.206(e)(8). FHAP agencies must input final status information directly in HEMS within 30 days of the administrative or judicial determination.

C. Post-Cause Administrative Hearings or Judicial Filings: An agency may receive additional funds for engaging in certain post-cause enforcement actions. If, pursuant to the substantially equivalent law, an agency either conducts an administrative hearing or files a civil action upon election to enforce a finding of reasonable cause, HUD may provide additional payment.

Where the triggering event (*i.e.*, conduct of administrative hearing or filing of civil action) for the supplemental payment does not occur, an agreement reached after a cause finding will not qualify as an enforcement action for purposes of this supplemental payment. Such cases will be reimbursed as any other cause case unless the disposition is a conciliation agreement (*i.e.*, an agreement signed by the parties and the FHAP agency), in which case it will be reimbursed as any other case closed with a conciliation agreement. Where the triggering event has occurred, a FHAP agency will receive the supplemental payment even where the case is resolved by a subsequent agreement, *e.g.*, through a consent decree.

Agencies will receive this increased supplemental payment when the agency has engaged in post-cause enforcement actions and has documented its actions in HEMS. This documentation must occur in order for the GTR/GTM to authorize payment.

V. CRITERIA FOR CONCILIATION

During the period beginning with the filing of a complaint and ending with the agency's no cause determination or charge of discrimination, the agency, to the extent feasible, must attempt to conciliate the complaint. In conciliating a complaint, agencies must attempt to achieve a just resolution of the complaint and obtain assurances that the respondent will satisfactorily remedy any violations of the rights of the complainant and take actions to ensure the elimination of alleged discriminatory housing practices and the prevention of their occurrences in the future. These standards for conciliation remain in effect even if conciliation/settlement takes place after the agency's cause determination.

A conciliation should provide both substantive individual relief for the complainant together with meaningful and effective public interest relief. Substantive individual relief includes both monetary relief and other affirmative relief required to make the complainant whole (e.g., approval or restoration of a housing opportunity, approval of a reasonable accommodation or reasonable modification request). The monetary relief afforded to the complainant should not be de minimis; it should compensate the complainant(s) for the harm alleged and be commensurate with relief obtained in other similar cases.

Public interest relief can take a variety of forms depending on the circumstances of a given complaint. Generally, it means the conciliation agreement contains certain provisions such as implementation of nondiscriminatory policies; changes to existing policies and practices; attendance at fair housing training; and/or other action that provides remediation or relief for individuals other than a complainant(s). Public interest relief may also encompass prospective relief such as agreeing to ongoing testing to assure compliance; agreeing to make changes in policies at all a respondent's properties (not just the subject property); participation in education and outreach activities; and/or other affirmative relief that protects the public interest.

FHAP agencies should be aware that a pattern of requiring only fair housing training is not meaningful public interest relief. HUD monitors will consider in every case whether other reasonable, appropriate forms of public interest should have been considered. Additionally,

public interest relief cannot be meaningful or effective unless reporting and recordkeeping provisions are included to ensure that all required actions are completed. A conciliation should provide both substantive individual relief and meaningful / effective public interest relief and such relief should be recorded into the HEMS record.

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

A. Quality Requirements/Required Documents: The FHAP agency must provide HUD with a signed and dated complaint, a chronology of actions taken up to the conciliation, copies of closure letters sent to the parties indicating that the complaint was closed due to a successful conciliation, together with a copy of the executed conciliation agreement.

The conciliation agreement must be in writing, dated and signed by complainant, respondent, and the authorized FHAP agency representative, and include:

1. HUD and FHAP complaint numbers;

2. Names of the parties;

3. Address and description of the subject property;

4. An effective date and the term in which the agreement remains in effect;

5. Relief that remedies the discrimination alleged in the complaint or is otherwise agreed upon by the parties and appropriate based on evidence obtained in the investigation of the matter;

6. As appropriate, relief that adequately vindicates the public interest, and prohibits future discriminatory housing practices by respondent;

7. A statement that the agreement constitutes closure of the complaint at HUD and the FHAP agency;

8. A statement that the agreement shall be made public unless the complainant and respondent otherwise agree, and an authorized representative of the agency determines that disclosure is not required to further the purposes of the substantially equivalent law. Circumstances that may result in partial or complete nondisclosure of a conciliation agreement may include, but are not limited to:

    - Sexual harassment claims;

    - A complainant's physical or mental condition, or medical diagnoses; or

    - The fact that a complainant is a resident in a domestic violence shelter or other protected residence which complainant believes may, if disclosed, be a safety risk.

9. Provisions that allow the FHAP agency to effectively monitor compliance with the agreement; and

10. A statement that violations of other civil rights laws have been alleged (if applicable).

*****NOTE:** A conciliation agreement does not prohibit HUD from taking action against respondent under other civil rights laws. When a complaint is subject to concurrent processing by HUD under other civil rights laws, the FHAP agency may not execute an agreement that resolves matters in regard to these laws without HUD's consent.

VI. CRITERIA FOR CLOSURES BY SETTLEMENT WITHOUT FHAP AGENCY INVOLVEMENT (A.K.A., WITHDRAWALS WITH RESOLUTION)

If complainant and respondent resolve the complaint without the FHAP agency's involvement, the complainant may withdraw the complaint by submitting a withdrawal request to the FHAP agency.

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

A. Quality Requirements. The withdrawal request must be written; it must be signed and dated by complainant or complainant's authorized representative; identify the respondent(s) to whom the withdrawal applies; contain the HUD and FHAP agency complaint numbers; state the reason(s) complainant seeks to withdraw the complaint; contain a statement that the withdrawal was not obtained by coercion or threat of retaliation from any person, including but not limited to the respondent; and identify the terms of the resolution.

B. Required Documents: The FHAP agency must provide FHEO with: a signed and dated complaint; a chronology of the FHAP agency actions prior to the withdrawal request; a copy of the signed and dated withdrawal request; documentation showing that the agency notified the complainant and respondent that the investigation would be terminated as a result of the withdrawal, and that the complainant could re-file the complaint if the terms of the resolution are not satisfied and the re-filing is received within the time limit for filing a complaint under the substantially equivalent law; and a copy of the closure letter.

NOTE: The FHAP agency must not encourage or facilitate resolution without its involvement in lieu of proceeding with conciliation. If HUD discovers that such occurred, it will be addressed through performance deficiency procedures.

VII. CRITERIA FOR ADMINISTRATIVE CLOSURES

Performance Standard 2 in the FHAP regulations, at 24 C.F.R. § 115.206(e)(2), requires that administrative closures only be utilized in limited and appropriate circumstances. It is critical that FHAP agencies not close complaints administratively except under the specific

circumstances set forth below.

A. Withdrawals without Resolution. If complainant decides to withdraw a complaint, even though the complaint has not been resolved, complainant must submit a withdrawal request.

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

1. Quality Requirements: The withdrawal request must: be written; signed and dated by complainant or complainant's authorized representative; identify the respondent(s) to whom the withdrawal applies; contain the HUD and FHAP agency complaint numbers; state the reason(s) complainant seeks to withdraw the complaint; contain a statement that complainant is aware that the withdrawal terminates the FHAP agency's investigation; contain a statement that the withdrawal was not obtained by coercion or threat of retaliation from any person, including but not limited to the respondent.

2. Required Documents: The FHAP agency must provide FHEO: a signed and dated complaint; a chronology of FHAP agency actions prior to receipt of the withdrawal request; a copy of the signed and dated withdrawal request that meets the Quality Requirements set out above; and a copy of the closure letter provided to all parties indicating closure due to withdrawal by complainant without resolution.

*****NOTE:** If the withdrawal request indicates that there was coercion or threat of retaliation FHAP payment may be denied.

B. Inability to Locate Complainant. The FHAP agency may administratively close a complaint when additional information is needed from complainant and he or she cannot be located.

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

1. Quality Requirements: If correspondence sent by the agency is returned with an indication that the complainant moved and left no forwarding address, the agency must take the following progressive steps to locate the complainant before administratively closing the complaint:

   a. Place at least four telephone calls to complainant's residence, cell phone number, and place of employment, two during normal business hours to work number and two during non-business hours to a residential/cell number. If an email address is available, the agency must attempt to email the complainant at least two times.
   b. Attempt to contact persons identified by complainant at intake to inquire as to complainant's whereabouts.

   c. Check other sources in an effort to obtain complainant's current contact information (*e.g.*, telephone directory, Internet searches, postal

service, 411 information, utility company, or witnesses previously identified by complainant).

d. Send a letter to the complainant's last known address by certified mail, advising complainant of the agency's intent to close the case unless complainant contacts the agency within ten days. If the tenth day elapses without a response, the case may be closed administratively by means of a written notice sent to all parties, including complainant at complainant's last known address.

*****NOTE:** If the FIR shows that the complaint was closed due to the inability to contact complainant without following the steps outlined above, the FHAP agency will not be reimbursed for processing the complaint.

2. Required Documents: The FHAP agency must provide the following documentation to FHEO: a signed and dated complaint; evidence that the above progressive steps were taken to locate complainant; evidence that the certified letter was returned unclaimed, and a copy of the closure letter sent to the parties indicating closure due to inability to locate complainant.

C. Inability to Locate Respondent

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

1. Quality Requirements: A FHAP agency must make every effort to identify the correct name and address of each respondent in a complaint. However, there may be circumstances where a respondent cannot be identified or located. If the complaint identifies multiple respondents and only one cannot be adequately identified, the agency must not close the complaint administratively. Rather, the investigation must proceed and further efforts must be made during the investigation to identify the respondent whose correct name or address remains unknown. The complaint may be amended to remove those respondents who could not be located.

If a sole respondent or all respondents cannot be identified or located, the complaint may be closed administratively if the agency first takes the following steps:

a. The FHAP agency must attempt to obtain additional information from available sources that could result in identifying or locating the respondent, including Internet searches, cell phone numbers, cross reference directories, or property tax records that may identify the owner or prior residents of the property in question and provide enough information to identify or locate the respondent, serve the complainant, and begin the formal investigation.

b. If a source appears to know the identity or location of a respondent that

the FHAP agency seeks, but that source refuses to provide the information voluntarily, the FHAP agency must subpoena the information.

c. As appropriate, the FHAP agency should attempt an on-site visit, which may help locate and identify the respondent.

d. If the above efforts to locate or identify the respondent are unsuccessful, a letter must be sent to the complainant giving him or her 10 days to provide information needed to locate or identify respondents.

*****NOTE:** In the absence of sufficient information, the case may be closed administratively, and written notice by regular and certified mail should be sent to the parties.

2. Required Documents: The FHAP agency must provide the following documentation to FHEO: a signed and dated complaint; evidence that the above progressive steps were taken to locate the respondent, including the signed letters identified in 1(d) above giving notice to complainant or complainant's representative, evidence that certified letters were returned unclaimed, and closure letters to complainant or complainant's representative indicating inability to locate respondent(s).

D. Failure of Complainant to Cooperate with the Investigation. A complaint may be administratively closed when complainant fails to respond to reasonable requests for information that is needed in order for the FHAP agency to make a determination.

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

1. Quality Requirements:

a. The FHAP agency must inform the complainants and their representatives of their duty to cooperate with the investigation and the risk of the agency administratively closing the complaint if they fail to cooperate.

b. The FHAP agency must make repeated attempts to contact complainants and their representatives by telephone and mail requesting the needed information. If these efforts are fruitless, the FHAP agency must send a letter to the complainant by certified mail return receipt giving complainant at least ten days from receipt of letter to provide the needed information to the agency.

c. If the complainant's cooperation cannot be obtained using the above procedures, and the letter is not returned by the post office (i.e., marked addressee unknown, moved, left no forwarding address, etc.), the complaint should then be closed for failure to cooperate.

d. If the complaint is closed for failure of complainant to cooperate with the investigation, a closure letter must be sent to the complainant.

2. Required Documents: The following documents must be provided to FHEO: a signed and dated complaint; evidence that the above progressive steps were taken to obtain complainant's cooperation, including the signed letter identified in 1(b) above giving notice to the complainant or the complainant's representative; and a copy of closure letter to the parties indicating closure because of failure of complainant to cooperate with the investigation.

E. Lack of Jurisdiction

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

1. Quality Requirements: In order to qualify for reimbursement, the lack of jurisdiction must not have been apparent on the face of the complaint at the time of filing, and must have become known only after further investigation. The following are examples of facts uncovered during an investigation that may justify reimbursement for an administrative closure for lack of jurisdiction: a) the complainant has not suffered the alleged harm needed to establish standing; b) the subject property qualifies for an exemption to coverage of both the Fair Housing Act and the substantially equivalent law. Note that if HUD, but not the agency, has jurisdiction over the complaint, the complaint must be referred to HUD for processing.

2. Required Documentation: The FHAP agency must provide the following documentation to FHEO: reason(s) for closing the complaint for lack of jurisdiction that demonstrates why HUD does not have jurisdiction, and that the lack of jurisdiction could not have been determined at intake; copies of closure letter sent to the parties that indicate reason for lack of jurisdiction closure, identify FHAP and HUD complaint numbers, and are signed by authorized FHAP agency official.

F. Trial has Begun A complaint must not be closed merely because an aggrieved party has filed a civil action with respect to the same alleged discriminatory housing practice(s).

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

1. Quality Requirements: No additional criteria.

2. Required Documents: To receive reimbursement for an administrative closure due to the commencement of a judicial trial the FHAP agency must produce: a document from the clerk of the court in the jurisdiction that hears the complaint or other sufficient documentation demonstrating that a trial has begun.

ATTACHMENT B

FY2025 Standards for Timeliness

Closures of Investigated Complaints

100 days or less:

- Non-systemic complaints, not novel or complex, that are settled or conciliated. Includes withdrawals with resolution.
- Non-systemic complaints, not novel or complex, where a cause or no cause decision has been made.

300 days or less:

- Systemic complaints that are novel or complex, that are settled or conciliated. Includes withdrawals with resolution.

350 days or less

- Systemic complaints that are novel or complex, where a cause or no cause decision has been made.

Administrative Closures

Inability to locate:	100 days or less
Lack of jurisdiction:	30 days or less
Failure to cooperate:	60 days or less
Withdrawal without resolution:	75 days or less
Closed because trial commenced:	N/A
Complaints that are reactivated:	N/A

Post-cause Enforcement and Final Disposition Actions

Upload final status information:	30 days after final order or agreement

ATTACHMENT C

FY2025 Payment Amounts for FHAP Complaint Processing

Conciliation: $3,400

Full Investigation (issue determination): $3,600

Post-cause enforcement action supplemental payments:

- **Administrative Hearing held:** $5,000
- **Civil Action filed:** $8,000

Administrative Closures: $1,600

Withdrawals with Resolution: $1,600

A conciliation should provide both substantive individual relief for the complainant together with meaningful and effective public interest relief. Substantive individual relief includes both monetary relief and other affirmative relief required to make the complainant whole (*e.g.*, approval or restoration of a housing opportunity, approval of a reasonable accommodation or reasonable modification request). The monetary relief afforded to the complainant should not be *de minimis*; it should compensate the complainant(s) for the harm alleged and be commensurate with relief obtained in other similar cases.

Public interest relief can take a variety of forms depending on the circumstances of a given complaint. Generally, it means the conciliation agreement contains certain provisions such as implementation of nondiscriminatory policies; changes to existing policies and practices; attendance at fair housing training; and/or other action that provides remediation or relief for individuals *other than a complainant(s)*. Public interest relief may also encompass prospective relief such as agreeing to ongoing testing to assure compliance; agreeing to make changes in policies at all a respondent's properties (not just the subject property); participation in education and outreach activities; and/or other affirmative relief that protects the public interest.

FHAP agencies should be aware that a pattern of requiring only fair housing training is not meaningful public interest relief. HUD monitors will consider in every case whether other reasonable, appropriate forms of public interest should have been considered. Additionally, public interest relief cannot be meaningful or effective unless reporting and recordkeeping provisions are included to ensure that all required actions are completed. A conciliation should provide both *substantive* individual relief and *meaningful / effective* public interest relief and such relief should be recorded into the HEMS record.

ATTACHMENT D –USING HUD SYSTEMS

LOCCS Security Procedures (FHAP)

The Line of Credit Control System (LOCCS) is the primary grant disbursement system for HUD programs, including the Fair Housing Assistance Program (FHAP). Grant disbursements are facilitated via the internet through the eLOCCS system. As participants in the FHAP, substantially equivalent state or local agencies are permitted access to LOCCS and eLOCCS.

The Department's Rules of Behavior and security guidelines require that the Approving Official for LOCCS transactions be the CEO, Board Officer, or Agency Director of an organization. An "Approving Official" is a LOCCS administrator who manages "users" in LOCCS. The Approving Official cannot be an individual serving in an interim or acting position and must have decision-making authority for the organization. **The Approving Official is the only individual permitted to be the Secure Connection Coordinator, and those duties may not be delegated**.

To comply with IT Security guidelines, each individual with access to LOCCS must safeguard his/her User ID and Password. User IDs and Passwords must **NOT** be shared with others. Only **authorized** users should access LOCCS. **Please note**: there is a requirement for a separate LOCCS User ID and password from Secure Systems access for both users and approving officials.

In the event the authorized user leaves the organization, the HUD Government Technical Representative (GTR) assigned to the current grant must be notified and a form HUD-27054 must be submitted to the GTR to terminate the employee who has left the organization and to authorize a new user, to be identified by the FHAP agency.

HUD embraces a "Zero Tolerance Philosophy" for failure to secure important financial information. Failure to abide by conditions above or the general *Rules of Behavior* below applicable to all HUD computer systems will result in the following consequences: access for the individual will be terminated and **will not be reinstated**. The FHAP agency will be required to identify another individual to assume the role of the disqualified individual (*i.e.*, as the approving official or authorized user).

Rules of Behavior for HUD Systems

The U.S. Department of Housing and Urban Development has granted access to the FHAP agency to utilize the Department's automated information resources (*e.g.*, HEMS). As a condition of receiving this access the Agency is required to be aware of the Department's system security policies and to abide by these policies. Security policy emphasizes awareness practices for the purpose of safeguarding the Department's valuable information resources.

The system user identification (USERID) and password issued to users are the FHAP agency's means to access these resources. They are to be used solely in connection with the performance of the responsibilities as set forth in the job description, contract or agreement(s) with the Department. Use by anyone other than authorized users are expressly prohibited. The authorized user agrees to be responsible for the confidentiality of the assigned information and accountable for all activity with their user identification (USERID).

ATTACHMENT D –USING HUD SYSTEMS

Further, users agree that you will not provide this confidential USERID/password to another user nor will the user sign on to HUD systems so that another person may access or operate the workstation in the user's absence or on their behalf. ***Actions of this type constitute a breach of system security and will result in immediate termination of your assigned USERID/password from the system.***

In addition, authorized users agree to:

(a) Log-off the system when leaving the system/workstation area;

(b) Refrain from leaving written passwords in the workstation area;

(c) Avoid creating a personal password that can be easily associated with you;

(d) Avoid posting printouts of sensitive output data on bulletin boards;

(e) Avoid leaving system output reports unattended or unsecured;

(f) Control input documents by returning them to files or forwarding them to the appropriate contact person in your office;

(g) Avoid violation of the Privacy Act which requires confidentiality of personal data contained in government and contractor data files;

(h) Immediately contact the HUD Inspector General's Office, as appropriate, regarding any suspected violation or breach of system security;

(i) Cooperate in providing personal background information to be used in conducting security background checks to the extent required by Federal regulations;

(j) Respond to any inquiries and requests for information you may receive from either the HUD Headquarters or management officials regarding system security practices.

(k) Protect all electronic/optical media and hardcopy documentation containing sensitive information and properly dispose of it by shredding hardcopy documentation, or by contacting the HITS Help Desk to dispose of electronic/optical media.

(l) Avoid saving sensitive HUD information on the local drive of a laptop, personally owned computer, or other mobile or portable technology ("flash drives", removable/external hard drives, etc.).

(m) If sensitive data must be stored on any type of HUD-approved mobile/portable technology (laptops, removable hard drives, "flash drives", etc.), ensure that it is protected via encryption.

(n) Individuals who telework or remotely access HUD information should do so only through approved remote access solutions (such as hudmobile.hud.gov), and should safeguard all sensitive information accessed in this manner.

ATTACHMENT E

FY2025 PARTNERSHIP AND SPECIAL ENFORCEMENT EFFORT FUNDS

This attachment contains important details regarding eligibility and application procedures for FY2025 Fair Housing Assistance Program (FHAP) Partnership funds and Special Enforcement Effort (SEE) funds under the authority set forth at 24 C.F.R. § 115.304(d) and § 115.305.

I. GENERAL PURPOSE AND AGENCY ELIGIBILITY

The purpose of Partnership funds is for an agency to utilize the services of individuals and/or public, private, for-profit, or not-for-profit organizations that have the expertise needed to effectively carry out the provisions of the agency's fair housing law. SEE funds are also available for agencies to enhance enforcement activities of the agency's fair housing law.

All agencies currently participating in FHAP that are eligible to receive contributions funds are eligible to receive an award of 2025 Partnership funds, **except for** those agencies that are suspended. Agencies that are on a Performance Improvement Plan (PIP) may be eligible for Partnership funds, subject to discretion of the Government Technical Representative (GTR) and Regional Director. Agencies that qualify for a Partnership award are also eligible to receive 2024 SEE funds, subject to the requirements in 24 C.F.R. § 115.305.

II. 2025 PARTNERSHIP FUNDS

A. Specific Use of 2025 Partnership Funds

Under the authority set forth at 24 C.F.R. § 115.304(d), HUD is making a total of up to $600,000 in 2025 Partnership funds available to eligible agencies. The use of Partnership funds awarded in 2025 **is restricted to** education and outreach activities.

In cases where the respective GTR and Regional Director determines that the funds are sufficient and the agency has the capacity to effectively undertake both activities, an agency may receive authorization from the GTR to engage in both.

i. Education and Outreach Activities

Funds under this activity are provided for the purpose of conducting education and outreach to persons residing in the geographic area served by the agency, as well as education and outreach to persons and entities subject to the agency's fair housing law. Consistent with the purpose of Partnership funds, agencies should, to the maximum extent possible, partner with grassroots, faith-based or other community-based organizations in accomplishing the goals of this Partnership funding. Education efforts complement the mission of agencies by helping to ensure open and inclusive communities. Activities may include, but are not limited to, staging of public events and the production (including contracting for) of informational and promotional materials. Material and activities should stress the relationship between HUD and FHAP funded agencies, as well as the agency's responsibilities for enforcement of its own substantially equivalent fair housing law.

B. Award Amount of 2025 Partnership Funds

HUD has a total of up to $600,000 available for Partnership activities in 2025. The size of the awards will be dependent on the demonstrated need. Where a State has both State and local FHAP funded agencies, the State agency should avoid expending its efforts in the same geographic area as the local agency(ies). This year distribution of these funds will not be made on a formula basis. Decisions on requests for Partnership funds from FHAP agencies will be made in headquarters on a case-by-case basis, with the actual fund commitment taking place in the field as with all other FHAP funds.

C. Additional Guidance Regarding Partnership Funds Deliverables

Where funds are used to produce education and outreach materials, such materials may include use of existing materials from previous education and outreach efforts (so long as they are in line with the Department's current priorities, including those in Attachment F, "*Mandatory FHAP Grant Agreement Provisions*"), but an agency should seek to expand the impact of those efforts by reaching additional audiences. New materials and strategies may also be developed, including the use of webinars, development and dissemination of PowerPoint presentations, publicizing the availability of materials developed, and the utilization of social media for education and public service announcements.

Deliverables may also include written educational materials such as brochures, fliers, fair housing posters, and other educational and training material such as videos or power points for identified audiences suitable for providing fair housing education. Graphic materials may include, but are not limited to, separately produced and printed posters, bus advertisements, online advertisements, or other outreach materials to be distributed to targeted audiences physically or through social media that are designed to educate individuals, organizations, and housing providers about the provisions of the State or local fair housing law in connection with the specific topic areas identified above.

III. 2025 SPECIAL ENFORCEMENT EFFORT FUNDS

This attachment contains important details regarding the operation of the 2025 SEE funds, which is being provided under the existing authority set forth at 24 C.F.R. § 115.305. This guidance covers the operation of the SEE Enforcement Fund only during the effective term of the 2025 FHAP Funding Guidance. SEE funds are **on a formula** basis for agencies that do Intake for their agency. The formula is as determined by the FHAP Division and will be provided with instructions in the coming months.

A. Specific Use of the 2025 SEE Funds

Under the authority set forth at 24 C.F.R. § 115.305, HUD is making available up to $600,000 in 2025 SEE funds to all eligible agencies. Use of 2025 SEE funds are meant to support agencies' enforcement activities and **are prioritized for the following**:

- Cover costs related to conducting intake activities.
- Supplement enforcement related costs associated with complex or protracted investigation; and
- cover extraordinary enforcement and investigation related costs associated with fair housing enforcement activities.

B. Award Amount of 2025 SEE Funds

HUD has a total of up to $600,000 in SEE funds available in 2025. The size of the awards will be dependent on the demonstrated need and available resources and will be subject to the discretion of the FHAP Division. The distribution of these funds will be made on a formula basis. Decisions on requests for SEE funds from FHAP agencies will be made in headquarters on a case-by-case basis, with the actual fund commitment taking place in the field as with all other FHAP funds.

C. SEE Fund Eligibility

The eligibility requirements for SEE funds are codified by the FHAP implementing regulation at 24 C.F.R. § 115.305(a) and (b). Thus, an agency requesting a distribution of funds must **meet at least three of the six baseline eligibility criteria** set forth at § 115.305(a)(1) – (6). Regardless of whether an agency meets the criteria identified above in Section I and/or the baseline criteria for SEE funds under § 115.305(a), it will nonetheless be ineligible if 20 percent or more of an agency's fair housing complaints in the current case processing period have resulted in administrative closures.

IV. FUNDING AND PERFORMANCE DEADLINES FOR BOTH PARTNERSHIP AND SEE FUNDS

***NOTE:** Depending upon expected utilization of funds (*e.g.*, agency opt-outs), HUD reserves the right to provide additional funds to an agency(ies) to achieve maximum utilization of the funds available. Additionally, HUD has authorized discretion to decline distribution of funds to any agency that unsuccessfully meets the criteria identified above.

The funds awarded through these 2025 Partnership and SEE awards **must be obligated on or before November 15, 2025**. Funds will be committed and obligated in accordance with the FHAP Funds Control Plan and the existing FHAP payment processes.

All requisite performance indicated in the Statement of Work (SOW) must be completed within the performance period indicated on the HUD-1044. **No requests for extensions** to the period of performance will be permitted for this award, and to ensure sufficient time for review and approval of any remaining drawdowns, **all performance in connection with both the Partnership and SEE funds must be completed no later than June 30, 2026**.

IV. DISTRIBUTION AND CONTROL OF 2025 PARTNERSHIP AND SEE FUNDS

Eligible agencies will be required to prepare and submit a SOW to their GTR detailing the intended use of the funds. Agencies receiving both Partnership and SEE funds should draft separate SOWs for each fund type. Depending upon the amount of funding and the specifics of the SOW, a payment schedule may also be required at the discretion of the GTR. The SOW should clearly identify the proposed activities, price estimates, specific deliverables, intended audiences, and anticipated outcomes. An agency's proposed products or strategies may be modified by the GTR during the SOW approval process based on the GTR and agency's agreed positions regarding achieving the maximum benefits to the jurisdiction's geographic areas, proposed targeted populations, and/or other factors.

All funds awarded under this Attachment will be distributed through the established FHAP payment process. Award funds will be assigned to the regions for disbursement as soon as practicable after approval by headquarters, and commitment and obligation of the award will be processed by the GTR, subject to this attachment. Control of these funds will comply with the requirements in this guidance, the FHAP governing regulations at 24 C.F.R. part 115, and the *Uniform Administrative Requirements for Federal Awards* at 2 C.F.R. part 200.

ATTACHMENT F

MANDATORY PROVISIONS

These provisions apply to all Grantees:

The Grantee:

(1) shall not use grant funds to promote "gender ideology," as defined in Executive Order (E.O.) 14168, Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government;

(2) agrees that its compliance in all respects with all applicable Federal anti-discrimination laws is material to the U.S. Government's payment decisions for purposes of section 3729(b)(4) of title 31, United States Code;

(3) certifies that it does not operate any programs that violate any applicable Federal anti-discrimination laws, including Title VI of the Civil Rights Act of 1964;

(4) shall not use any grant funds to fund or promote elective abortions, as required by E.O. 14182, Enforcing the Hyde Amendment; and that

(5) notwithstanding anything in the NOFO or Application, this Grant shall not be governed by Executive Orders revoked by E.O. 14154, including E.O. 14008, or NOFO requirements implementing Executive Orders that have been revoked.

(6) Shall abide by Presidential Executive Actions affecting federal financial assistance programs: Executive Order (EO) 14219 (Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative); 14218 (Ending Taxpayer Subsidization of Open Borders); guidance resulting from the White House Task Force established by 14202 (Eradicating Anti-Christian Bias) and the Senior Advisor to the White House Faith Office assigned by 14205 (Establishment of the White House Faith Office); 14182 (Enforcing the Hyde Amendment); 14173 (Ending Illegal Discrimination and Restoring Merit-Based Opportunity); 14151 (Ending Radical and Wasteful Government DEI Programs and Preferencing); and 14148 (Initial Rescissions of Harmful Executive Orders and Actions)

(7) Shall not issue findings utilizing disparate impact liability as defined by Executive Order 14281 (Restoring Equality of Opportunity and Meritocracy)

(8) Must administer its grant in accordance with all applicable immigration restrictions and requirements, including the eligibility and verification requirements that apply under title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended (8 U.S.C. 1601-1646) (PRWORA) and any applicable requirements that HUD, the Attorney General, or the U.S. Citizenship and Immigration Services may establish from time to time to comply with PRWORA, Executive Order 14218, or other Executive Orders or immigration laws. If applicable, no state or unit of general local government that receives funding under this grant may use that funding in a manner that by design or effect facilitates the subsidization or promotion of illegal immigration or abets policies that seek to shield illegal aliens from deportation.